IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 255 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 14/02/2005 in WP NO : 1373 OF 2005 on the file of the High Court.)

Between:

Smt.Bandila Audi Seshamma, W/o.Subbulaiah,
Chillakur Mandal, Nellore District.

..... APPELLANT

AND

1 The Governemt of Andhra Pradesh, rep.by its Principal Secretary, Panchayat Raj Department,
Secretariat, Hyderabad.
2 The Revenue Divisional officer, Gudur, Nellore District.
3 Vema Reddy Sundarrami Reddy, S/o.Ramachandra Reddy,
MPTC Member, Varagali, R/o.Momidi Village,
Chillakur Mandal, Nellore District.
4 Sanaga Balakrishnaiah, S/o.Tirumalaiah,
MPTC Member, Muttyalapadu, R/o.Narcharampet,
Chillakur Mandal, Nellore District.
5 Kandala Kusuma Rukmini Jyothi, D/o.Rajulaiah,
MPTC Member, Tonukumala,R/o.Ranukumala, Kalava Konda,
Chillakur Mandal, Nellore District.

6 Tirumala Chetty Ramanamma, W/o.Gopalaiah,
MPTC Member, Oduru, R/o.Punnapevari Palem Village,
Chillakur Mandal, Nellore District.
7 Bomma Bosamma, W/o.Meraiah,
MPTC Member, Taminipatnam, R/o.Gummala Dibba,
Chillakur Mandal, Nellore District.
8 Timmala Raja Sekhar Reddy, S/o.Ramachandra Reddy,
MPTC Member, Chillakur, R/o.Chillakur village &
Chillakur Mandal, Nellore District.
9 Jogi Nageswarao, S/o.Venkatasubaiah,
MPTC Member, Kadivedu, R/o.Thimmanagari Palem,
Chillakur Mandal, Nellore District.
10 Venkatachalagari Ramanaiah, S/o.Adiah,
MPTC Member, Ballavolu, R/o.Ballavolu,
Chillakur Mandal, Nellore District.
11 Udatha Rajaiah, S/o.Chinnaiah,
MPTC Member, Chintavaram, R/o.Yeruru,
Chillakur Mandal, Nellore District.
12 Gaddam Pedapullaiah, S/o.Nagaiah,
MPTC Member, Vellipedu, R/o.Vellipedu,
Chillakur Mandal, Nellore District.

.....RESPONDENTS

Counsel for the Appellant : MR.P.KRISHNA REDDY

Counsel for the Respondent Nos. 1 and 2: : GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the respondent Nos. 3 to 12: MR. M.P. CHANDRAMOULI.

The Court made the following :

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ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. Writ petition was filed by the appellant questioning the action of respondent No.2 in convening the meeting on 03.02.2005 to consider No Confidence Motion against the petitioner – appellant as illegal on the ground that meeting is convened on the basis of a notice issued by 2nd respondent dated 05.01.2005 which is illegal and against the rules and pass such other order or orders.

2. Learned single Judge dismissed the writ petition relying upon the ratio of decision of the Division Bench of this Court reported in Y. Raghava Reddy Vs. Govt., of A.P., (1999 (2) ALT 175 (DB) as reiterated by the Full Bench of this Court in K.Sujatha Vs. Government of Andhra Pradesh and Another (2004 (3) ALD 1 (FB).

3 . A letter was addressed by respondents 3 to 12 to 2nd respondent expressing their intention of moving No Confidence Motion against the appellant as she was not functioning properly and was not available to them as well as to the general public and on account of it, the development programmes in the Mandal, according to respondents 3 to 12, had seriously affected. Thus the Motion of No Confidence signed by 10 out of 12 members was moved on the ground that she had lost confidence. The letter addressed to respondent No.2 also stated that they were also enclosing Form II to

enable respondent No.2 to call for No Confidence Motion as provided under the rules. The letter reads as under:

“

To

The Revenue Divisional Officer,

Gudur,

Nellore District.

Respected Sir,

Sub: Presenting the no confidence motion against
Smt. Bandila Audhiseshamma, M.P.P.,
Chillakur, Nellore District – Request to convey
meeting – regarding.

Ref: A.P. Panchayath Raj Act, 1994 as per Rule 13
and Section 245 of the said Act – Pray for
invoking the powers conferred thereunder.

We bring it your kind notice that the following undersigned persons were elected as members of the M.P.T.C. for Chillakuru Mandal Parishath. One Bandili Audhi Seshamma was elected as Mandal Parishad President on 22.07.2001. We intend to move no confidence motion against the said Audhiseshamma, as she has not functioning it properly and she is not available to us as well as general public. On account of it the development programmes in the above said Mandal were seriously affected. Hence we have decided to move no confidence motion against her 10 out of 12 members moved the same as she lost the confidence. We are herewith enclosing form No.II to enable you to call for no confidence motion as provided under the rules.

Yours faithfully,”

4. The form II accompanying the aforementioned letter reads as under:

“

To

The Revenue Divisional Officer,

Gudur,

Nellore District.

Respected Sir,

We the undersigned persons are the members (M.P.T.C) of Mandal Parishath Chillakuru, Nellore District. We intended to move no confidence motion against Smt. Bandilu Audhiseshamma, President, Mandal Parishath, Chillakuru, as contemplated under Section 245(1) of A.P. Panchayath Raj Act of 1994 (1994 of 13). We request you to convey special meeting to pass no confidence motion against her. We are herewith enclosing requisition to convey the same at the earliest.

Signed on 05.01.2005."

5. On receipt of this Form II and the letter, respondent No.2 convened meeting on 03.02.2005. Notice in Form-V was served by 2nd respondent on the members of M.P.T.C., who intended to move No Confidence Motion against the appellant, who was President of Chillakur Mandal Parishad. Admittedly the said notice also accompanied the afore-quoted letter and Form II.

6. Grievance made by the learned counsel for the appellant before learned single Judge as well as before us also is that Form II did not accompany No Confidence Motion; therefore there was non-compliance of Rule 2 of the Rules relating to Motion of No Confidence in Upa-Sarpanch of Gram Panchayat or Vice-President, President of Mandal Parishad or vice-Chairperson/Chairperson of Zilla Parishad (for short "the Rules"), which was mandatory in nature as held by the Full Bench of this Court in the case of K.Sujatha Vs. Government of Andhra Pradesh & another (2004 (3) ALD 1 (FB), and once such notice given to respondent No.2 was not valid, respondent No.2 could not have convened the meeting for moving No Confidence Motion and the entire proceeding is vitiated. It is not disputed that

Form II was appended to the letter, which we have quoted above, addressed by respondents 3 to 12, who were the elected members of M.P.T.C., of Chillakuru Mandal Parishad, expressing their intention to move No Confidence Motion against the appellant on the ground that she was not functioning properly, she was not available to them as well as to general public, on account of which development programmes are stalled and that she has lost confidence - thus making their intention clear. They also stated in the letter that Form II was annexed to the letter.

7. Though the wording in Form II is not the same as is found in the format appended to the Rules, but it is substantially the same. However, the word that is basically important is reproduced in the format. Form II says that Motion of No Confidence is annexed to the said format. Therefore, as per the decision in K.Sujatha's case, any Motion of No Confidence must accompany Form II and what was accompanied in Form II was the letter, as quoted above, which contains the intention of the respondents 3 to 12 to move No Confidence Motion against the appellant. Rules nowhere prescribe the format of the motion. Learned single Judge has held that there was sufficient compliance of the rules and there was no prejudice caused to the appellant. Reading the decisions relied upon and the rule position, we are also of the view that submissions made before us are misconceived inasmuch as the two letters, quoted above, substantially complied with the provisions of law making their intention clear of moving No Confidence Motion. Merely that the letters were not in prescribed format under the Rules, they will not invalidate the notice since none of the substantial parts of the format is lacking in the letters. The letter makes explicitly clear that what was intended to move is No Confidence Motion against the appellant.

8. For the foregoing discussion, we see no grounds to interfere with the impugned order. Writ appeal fails and is dismissed. No costs.

Sd/-A.SUVARNA

DEPUTY REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary to Government, Panchayat Raj Department, Secretariat, Hyderabad.
2 The Revenue Divisional officer, Gudur, Nellore District.
3. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

5. One cc to Mr.P.Krishna Reddy,Advocate (OPUC)

6. One cc to Mr.M.P.Chandramouli,Advocate (OPUC)

TRkJ

HIGH COURT

DATED: 17.2.2005

JUDGMENT:

WA.NO. 255 OF 2005

DISMISSING THE

WRIT APPEAL

WITHOUT COSTS

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE B. SESHASAYANA REDDY.

W.A.NO. 255 OF 2005.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 17.02.2005.